THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION No.27400 of 2005

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Dated:23.12.2005

Between:

Dr.B.Chandra Sekhar, S/o.Dr.B.Shanmukheswara Rao (Late), D.No.11-5-11, Gopala Krishna Street, Ramaraopet, Kakinada (P.O.), East Godavari District.

..... PETITIONER

AND

The A.P.Transco-E.P.D.C.L. Rep by its the Chairman cum Managing Director, Corporate Office at Dabagardens, Visakhapatnam (P.O), and District, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION No.27400 of 2005

ORDER:

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This writ petition is filed to declare the impugned provisional assessment notice, dated 17.12.2005, issued by the 2nd respondent, as illegal, arbitrary and in violation of the provision of Section 126 of Electricity Act 2003 (for short 'the Act').

Learned counsel appearing for the petitioner submits that he is having electricity service connection No.22248 under low tension category-I at Gopala Krishna Street of Kakinada Town and is running a hospital in the name and style of M/s. Ravi Chandra Hospital. While so, the 2nd respondent made an inspection on 12.12.2005 and sent the meter for testing on the allegation that the energy was pilfered. Basing on the inspection report, the 2nd respondent issued the impugned provisional assessment notice, dated 17.12.2005, estimating the value of energy pilfered by the petitioner at Rs.1,57,196=50 and disconnected the power supply on the same day. The petitioner was called upon to submit his representation, within one month from the date of receipt of the notice, as to why the disconnection shall not be continued. For restoration of the power supply, the petitioner was directed to pay half of the said amount. Learned counsel further submits that pursuant to the representation made by the petitioner to the 1st respondent, the service connection was restored on 18.12.2005 and he has not filed any explanation.

It has to be seen that after passing the provisional assessment order under Section 126 (2) of the Act, the consumer shall be given opportunity to file his objections against the provisional assessment notice and it is for the consumer to agree the provisional assessment order or to dispute the same by filing objections and if any objections are filed under Section 126 (4) of the Act, the final assessment order has to be passed in accordance with Section 126 (5) and (6) of the Act. Until the final assessment order is passed under sub-sections (5) and (6) of Section 126 of the Act, the service connection cannot be disconnected.

Having regard to the facts and circumstances of the case, I am of the opinion that basing on the provisional assessment notice the respondents cannot disconnect the power supply under Section 126 of the Act and the impugned provisional assessment notice, dated 17.12.2005, is directed to be treated as show cause notice and the petitioner shall file his objections within one month from today and till the final orders are passed, the service connection of the

petitioner shall not be disconnected for non-payment of the provisional assessment amount on pilferage charges.

Accordingly, the writ petition is allowed. No order as to costs.

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23.12.2005

Note: Issue CC in three days

B/o.

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